

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE	)	Civil No. 08CV1620 WQH(RBB)
COMMISSION,	)	
	)	CASE MANAGEMENT CONFERENCE
Plaintiff,	)	ORDER REGULATING DISCOVERY AND
	)	OTHER PRETRIAL PROCEEDINGS
v.	)	
	)	(Rule 16, Fed.R.Civ.P.)
RETAIL PRO, INC. (fka Island	)	(Local Rule 16.1)
Pacific, Inc.), BARRY M.	)	
SCHECHTER, RAN H. FURMAN, and	)	
HARVEY BRAUN,	)	
	)	
Defendants.	)	
_____	)	

Pursuant to rule 16 of the Federal Rules of Civil Procedure, a case management conference was held on November 5, 2008. After consulting with the attorneys of record for the parties and being advised of the status of the case, and good cause appearing,

IT IS HEREBY ORDERED:

1. All discovery shall be completed by all parties on or before July 6, 2009. All motions for discovery shall be filed no later than thirty (30) days following the date upon which the event giving rise to the discovery dispute occurred. For oral discovery, the event giving rise to the discovery dispute is the completion of

1 the transcript of the affected portion of the deposition. For  
2 written discovery, the event giving rise to the discovery dispute  
3 is the service of the response. All interrogatories and document  
4 production requests must be served by May 6, 2009.

5 2. Plaintiff(s) shall serve on all other parties a list of  
6 expert witnesses whom Plaintiff(s) expect(s) to call at trial by  
7 May 6, 2009. Defendant(s) shall serve on Plaintiff(s) a list of  
8 expert witnesses Defendant(s) expect(s) to call at trial by June 5,  
9 2009. Each party may supplement its designation in response to the  
10 other party's designation no later than June 19, 2009. The parties  
11 must identify any person who may be used to present evidence  
12 pursuant to Rules 702, 703 or 705 of the Federal Rules of Evidence.  
13 This requirement is not limited to retained experts. The  
14 designation(s) shall comply with rule 26(a)(2) of the Federal Rules  
15 of Civil Procedure and be accompanied by a written report prepared  
16 and signed by each witness, including in-house or other witnesses  
17 providing expert testimony. The failure to fully comply with these  
18 requirements may result in the exclusion of expert testimony. A  
19 written report is not required from a witness giving testimony as a  
20 percipient expert.

21 3. Any motion to join other parties, to amend the pleadings  
22 or to file additional pleadings shall be filed and heard on or  
23 before April 6, 2009.

24 4. All other pretrial motions must be filed on or before  
25 August 10, 2009. Please be advised that counsel for the moving  
26 party must obtain a motion hearing date from the law clerk of the  
27 judge who will hear the motion. **Be further advised that the period**  
28 **of time between the date you request a motion date and the hearing**

1 date may vary from one district judge to another. Please plan  
2 accordingly. For example, you should contact the judge's law clerk  
3 in advance of the motion cutoff to calendar the motion. Failure to  
4 timely request a motion date may result in the motion not being  
5 heard.

6 Questions regarding this case should be directed to the  
7 judge's law clerk. The Court draws the parties' attention to Local  
8 Rule 7.1(e)(4) which requires that the parties allot additional  
9 time for service of motion papers by mail. Papers not complying  
10 with this rule shall not be accepted for filing.

11 Briefs or memoranda in support of or in opposition to any  
12 pending motion shall not exceed twenty-five (25) pages in length  
13 without leave of the judge who will hear the motion. No reply  
14 memorandum shall exceed ten (10) pages without leave of the judge  
15 who will hear the motion.

16 5. Further settlement conferences shall be held at  
17 appropriate intervals during the course of the litigation in the  
18 chambers of Judge Ruben B. Brooks. A further settlement conference  
19 shall be held on April 28, 2009, at 2:00 p.m. A mandatory  
20 settlement conference date will be set at one of the scheduled  
21 settlement conferences.

22 All parties, claims adjusters for insured Defendants and non-  
23 lawyer representatives with complete authority to enter into a  
24 binding settlement, as well as the principal attorneys responsible  
25 for the litigation, must be present and legally and factually  
26 prepared to discuss and resolve the case at the mandatory  
27 settlement conference and at all settlement conferences. Retained  
28 outside corporate counsel shall not appear on behalf of a

1 corporation as the party representative who has the authority to  
2 negotiate and enter into a settlement. Failure to attend or obtain  
3 proper excuse will be considered grounds for sanctions.

4 If Plaintiff is incarcerated in a penal institution or other  
5 facility, the Plaintiff's presence is not required at conferences  
6 before Judge Brooks, and the Plaintiff may participate by  
7 telephone. In that case, defense counsel is to coordinate the  
8 Plaintiff's appearance by telephone.

9 **Confidential written settlement statements for the mandatory**  
10 **settlement conference shall be lodged directly in the chambers of**  
11 **Judge Brooks no later than five court days before the mandatory**  
12 **settlement conference.** The statements need not be filed with the  
13 Clerk of the Court or served on opposing counsel. The statements  
14 will not become part of the court file and will be returned at the  
15 end of the conference upon request. Written statements may be  
16 lodged with Judge Brooks either by mail or in person.

17 Any statement submitted should avoid arguing the case.  
18 Instead, the statement should include a neutral factual statement  
19 of the case, identify controlling legal issues, and concisely set  
20 out issues of liability and damages, including any settlement  
21 demands and offers to date and address special and general damages  
22 where applicable.

23 If appropriate, the Court will consider the use of other  
24 alternative dispute resolution techniques.

25 6. No Memoranda of Law or Contentions of Fact are to be  
26 filed if this case is tried to a jury. If this case is tried to  
27 the Court, counsel shall serve on each other and file with the  
28 Clerk of the Court their memoranda of contentions of fact and law

1 in compliance with Local Rule 16.1(f)(2) on or before November 20,  
2 2009. In any event, on or before this date, all parties or their  
3 counsel shall also fully comply with the pretrial disclosure  
4 requirements of rule 26(a)(3) of the Federal Rules of Civil  
5 Procedure.

6 7. Counsel shall confer and take the action required by  
7 Local Rule 16.1(f)(4) on or before November 24, 2009. The parties  
8 shall meet and confer and prepare a proposed pretrial order. A  
9 personal meeting between an incarcerated Plaintiff, acting in pro  
10 per, and defense counsel is not required.

11 At this meeting, counsel shall discuss and attempt to enter  
12 into stipulations and agreements resulting in simplification of the  
13 triable issues. Counsel shall exchange copies and/or display all  
14 exhibits other than those to be used for impeachment, lists of  
15 witnesses and their addresses including experts who will be called  
16 to testify and written contentions of applicable facts and law.  
17 The exhibits shall be prepared in accordance with Local Rule  
18 16.1(f)(2)(c). Counsel shall cooperate in the preparation of the  
19 proposed final pretrial conference order.

20 8. The proposed final pretrial conference order, including  
21 objections to any party's Fed. R. Civ. P. 26(a)(3) pretrial  
22 disclosures, shall be prepared, served and lodged with the Clerk of  
23 the Court on or before November 30, 2009, and shall be in the form  
24 prescribed in and in compliance with Local Rule 16.1(f)(6).  
25 Counsel shall also bring a court copy of the pretrial order to the  
26 pretrial conference.

27

28

1           9.    The final pretrial conference shall be held before the  
2 Honorable William Q. Hayes, United States District Judge, on  
3 December 7, 2009, at 3:00 p.m.

4           10. The dates and times set forth herein will not be modified  
5 except for good cause shown.

6           11. Plaintiff's(s') counsel shall serve a copy of this order  
7 on all parties that enter this case hereafter.

8  
9 Dated: November 7, 2008

  
RUBEN B. BROOKS  
United States Magistrate Judge

10  
11 cc: All Parties of Record  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CASE RESOLUTION GUIDELINES**

**Attendance**

All parties and claims adjusters for insured Defendants and representatives with complete authority to enter into a binding settlement, as well as the principal attorney(s) responsible for the litigation, must be present and legally and factually prepared to discuss and resolve the case. Failure to attend or obtain proper excuse will be considered grounds for sanctions.

**Case Resolution Conference Briefs**

Written statements, when specifically requested, shall be lodged in the chambers of Judge Brooks no later than five court days before the scheduled conference. The statements will not become part of the court file. Written statements may be submitted on a confidential basis and lodged with Judge Brooks either by mail or in person.

Any statement submitted should avoid arguing the case. Instead the statement should include a neutral factual statement of the case and concisely set out issues of liability and damages, including any settlement demands and offers to date, and address special and general damages where applicable.

If appropriate, the court will consider the use of other alternative dispute resolution techniques.

If you have any further questions, please feel free to contact my research attorney, at (619) 557-3404.